

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel., et al.	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
TYSON FOODS, INC., et al.	)	
	)	Case No. 05-CV-0329-JOE-SAJ
Defendants and	)	
Third-Party Plaintiffs,	)	
	)	
	)	
vs.	)	
	)	
CITY OF TAHLEQUAH, et al.	)	
	)	
Thirty-Party Defendants.	)	

**THIRD-PARTY DEFENDANT, WAUHILLAU OUTING CLUB'S  
APPLICATION TO WITHDRAW MOTION TO DISMISS**

Third-Party Defendant, Wauhillau Outing Club hereby files this Application to withdraw its pending motion to dismiss the Third-Party Complaint, and in support of this Application, states:

1. On May 19, 2006, Wauhillau Outing Club filed a Motion to Dismiss the Third-Party Complaint for insufficiency of service of process and failure to effect service within the required time period. This motion was based in part on the fact that no return of service had been filed of record by the Plaintiffs.

2. Subsequent to the filing of the Motion to Dismiss, Plaintiffs' counsel contacted the undersigned and informed him that they had in their possession a return of service which indicated that an officer of Wauhillau Outing Club had indeed been served pursuant to the Rules of Civil Procedure.

3. Shortly after this telephone conversation, Plaintiffs indeed filed a return of service, showing that service was had on the treasurer of Wauhillau Outing Club. Service is proper and therefore Wauhillau Outing Club desires to withdraw its Motion to Dismiss and contemporaneously herewith files its Answer to the Third-Party Complaint.

4. Opposing counsel has been contacted and does not object to this motion.

5. It is requested that the Court enter an Order granting Wauhillau Outing Club's Application to Withdraw its Motion to Dismiss for the reasons stated above.

Respectfully submitted,

/s/ Reuben Davis

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**CERTIFICATE OF MAILING**

I hereby certify that on May 26, 2006, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and served the foregoing by mail on the following, who are not registered participants in the ECF System:

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